

Public Records Reform Proposal Redlines

Chapter 132.

Public Records.

§ 132-1. "Public records" defined.

(a) "Public record" or "public records" shall mean all documents, papers, letters, maps, books, photographs, films, sound recordings, magnetic or other tapes, electronic data-processing records, artifacts, or other documentary material, regardless of physical form or characteristics, made or received pursuant to law or ordinance in connection with the transaction of public business by any agency of North Carolina government or its subdivisions. Agency of North Carolina government or its subdivisions shall mean and include every public office, public officer or official (State or local, elected or appointed), institution, board, commission, bureau, council, department, authority or other unit of government of the State or of any county, unit, special district or other political subdivision of government.

(b) The public records and public information compiled by the agencies of North Carolina government or its subdivisions are the property of the people. Therefore, it is the policy of this State that the people may obtain copies of their public records and public information free or at minimal cost unless otherwise specifically provided by law. As used herein, "minimal cost" shall mean the actual cost of reproducing the public record or public information.

(c) Article 17 of Chapter 120 of the General Statutes shall govern all records and information of the legislative branch which shall be exempt from this Chapter, including documents as defined by G.S. 120-129.

(d) No political subdivision of this State may enter into a nondisclosure agreement in order to restrict access to public records subject to disclosure under this Chapter. The contract by which a political subdivision of this State agrees not to disclose information deemed confidential under State law shall be a public record, unless the existence of the contract is also deemed confidential under State law. If a nondisclosure agreement is associated with one or more closed session meetings under Article 33C of Chapter 143 of the General Statutes, the nondisclosure agreement shall be included in the minutes of each closed session meeting. (1935, c. 265, s. 1; 1975, c. 787, s. 1; 1995, c. 388, s. 1; 2023-134, s. 27.7(f); 2023-138, s. 5(b).)

ADD NEW SUBSECTIONS (e)

(e) "Vexatious Request" means any public records request that exhibits a pattern of excessive volume, repetitiveness, or unreasonable demands on agency resources, or appears intended to harass, delay, or disrupt agency operations.

§ 132-6. Inspection, examination and copies of public records.

AMEND SUBSECTION (a)

(a) Every custodian of public records shall permit any record in the custodian's custody to be inspected and examined at reasonable times and under reasonable supervision by any person, and shall, as promptly as possible, furnish copies thereof upon payment of any fees as may be

Public Records Reform Proposal Redlines

prescribed by law, [subject to the provisions of G.S. 132-6.4 regarding vexatious requests](#). As used herein, "custodian" does not mean an agency that holds the public records of other agencies solely for purposes of storage or safekeeping or solely to provide data processing.

(a1) A public agency or custodian may satisfy the requirements in subsection (a) of this section by making public records available online in a format that allows a person to view the public record and print or save the public record to obtain a copy. If the public agency or custodian maintains public records online in a format that allows a person to view and print or save the public records to obtain a copy, the public agency or custodian is not required to provide copies to these public records in any other way.

(b) No person requesting to inspect and examine public records, or to obtain copies thereof, shall be required to disclose the purpose or motive for the request.

(c) No request to inspect, examine, or obtain copies of public records shall be denied on the grounds that confidential information is commingled with the requested nonconfidential information. If it is necessary to separate confidential from nonconfidential information in order to permit the inspection, examination, or copying of the public records, the public agency shall bear the cost of such separation.

ADD NEW SUBSECTIONS (d) & (e), SHIFT CURRENT (d), (e), (f) to (f), (g), (h) RESPECTIVELY.

[\(d\) Public agencies may petition the State Chief Information Officer to designate a requester as vexatious. If such designation is approved, the requester may be limited to a maximum of two \(2\) active requests at any given time, for a period not exceeding twelve \(12\) months unless renewed through additional findings.](#)

[\(e\) Public agencies may establish policies to limit the number of simultaneous, active requests from a single requester to prevent excessive interference with operations.](#)

(f) Notwithstanding the provisions of subsections (a) and (b) of this section, public records relating to the proposed expansion or location of specific business or industrial projects may be withheld so long as their inspection, examination or copying would frustrate the purpose for which such public records were created; provided, however, that nothing herein shall be construed to permit the withholding of public records relating to general economic development policies or activities. Once the State, a local government, or the specific business has announced a commitment by the business to expand or locate a specific project in this State or the business has made a final decision not to do so, of which the State or local government agency involved with the project knows or should know, the provisions of this subsection allowing public records to be withheld by the agency no longer apply. Once the provisions of this subsection no longer apply, the agency shall disclose as soon as practicable, and within 25 business days, public records requested for the announced project that are not otherwise made confidential by law. An announcement that a business or industrial project has committed to expand or locate in the State shall not require disclosure of local government records relating to the project if the business has not selected a specific location within the State for the project. Once a specific location for the project has been determined, local government records must be disclosed, upon request, in accordance with the

Public Records Reform Proposal Redlines

provisions of this section. For purposes of this section, "local government records" include records maintained by the State that relate to a local government's efforts to attract the project.

Records relating to the proposed expansion or location of specific business or industrial projects that are in the custody of the Department of Commerce or an entity with which the Department contracts pursuant to G.S. 143B-431.01 shall be treated as follows:

- (1) Unless controlled by another subdivision of this subsection, the records may be withheld if their inspection, examination, or copying would frustrate the purpose for which the records were created.
- (2) If no discretionary incentives pursuant to Chapter 143B of the General Statutes are requested for a project and if the specific business decides to expand or locate the project in the State, then the records relating to the project shall not be disclosed.
- (3) If the specific business has requested discretionary incentives for a project pursuant to Chapter 143B of the General Statutes and if either the business decides not to expand or locate the project in the State or the project does not receive the discretionary incentives, then the only records relating to the project that may be disclosed are the requests for discretionary incentives pursuant to Chapter 143B of the General Statutes and any information submitted to the Department by the contracted entity.
- (4) If the specific business receives a discretionary incentive for a project pursuant to Chapter 143B of the General Statutes and the State or the specific business announces a commitment to expand or locate the project in this State, all records requested for the announced project, not otherwise made confidential by law, shall be disclosed as soon as practicable and within 25 days from the date of announcement.

(f1) Notwithstanding the provisions of subsections (a) and (b) of this section, public records relating to the potential location, evaluation, and acquisition of a qualifying site may be withheld so long as their inspection, examination, or copying would frustrate the purpose for which such public records were created, including increasing costs of acquisition. Once (i) the land comprising a qualifying site has been acquired or on which options have been secured or (ii) the qualifying site is evaluated but ultimately deemed unsuitable for further development, the provisions of this subsection allowing public records to be withheld by the agency no longer apply. Once the provisions of this subsection no longer apply, the agency shall disclose as soon as practicable, and within 25 business days, public records requested for the qualifying site that are not otherwise made confidential by law. For purposes of this subsection, a qualifying site is a megasite or selectsite for which State funding for identification, evaluation, and acquisition is approved by the Economic Investment Committee from the North Carolina Megasite Fund or North Carolina Selectsite Fund.

(g) The application of this Chapter is subject to the provisions of Article 1 of Chapter 121 of the General Statutes, the North Carolina Archives and History Act.

(h) Notwithstanding the provisions of subsections (a) and (a1) of this section, the inspection or copying of any public record which, because of its age or condition could be damaged during inspection or copying, may be made subject to reasonable restrictions intended to preserve the

Public Records Reform Proposal Redlines

particular record. (1935, c. 265, s. 6; 1987, c. 835, s. 1; 1995, c. 388, s. 2; 2005-429, s. 1.1; 2014-18, s. 1.1(c); 2014-115, s. 56.1; 2017-10, s. 2.9(b); 2023-134, s. 11.11(c).)

§ 132-6.2. Provisions for copies of public records; fees.

(a) Persons requesting copies of public records may elect to obtain them in any and all media in which the public agency is capable of providing them. No request for copies of public records in a particular medium shall be denied on the grounds that the custodian has made or prefers to make the public records available in another medium. The public agency may assess different fees for different media as prescribed by law.

AMEND SUBSECTION (b)

(b) Persons requesting copies of public records may request that the copies be certified or uncertified. The fees for certifying copies of public records shall be as provided by law. Except as otherwise provided by law, no public agency shall charge a fee for an uncertified copy of a public record that exceeds the actual cost to the public agency of making the copy. For purposes of this subsection, "actual cost" is limited to direct, chargeable costs related to the reproduction of a public record as determined by generally accepted accounting principles and does not include costs that would have been incurred by the public agency if a request to reproduce a public record had not been made. Notwithstanding the provisions of this subsection, if the request is such as to require extensive use of information technology resources, extensive attorney review, or extensive clerical or supervisory assistance by personnel of the agency involved, or if producing the record in the medium requested results in a greater use of information technology resources than that established by the agency for reproduction of the volume of information requested, then the agency may charge, in addition to the actual cost of duplication, a special service charge, which shall be reasonable and shall be based on the actual cost incurred for such extensive use of information technology resources, attorney fees, or the labor costs of the personnel providing the services, or for a greater use of information technology resources that is actually incurred by the agency or attributable to the agency. For requests projected to cost more than twenty-five dollars (\$25), agencies may require a deposit not to exceed fifty percent (50%) of the estimated cost. If anyone requesting public information from any public agency is denied or is charged a fee that the requester believes to be unfair or unreasonable, the requester may ask the State Chief Information Officer or his designee to mediate the dispute before litigation may be pursued.

(c) Persons requesting copies of computer databases may be required to make or submit such requests in writing. Custodians of public records shall respond to all such requests as promptly as possible. If the request is granted, the copies shall be provided as soon as reasonably possible. If the request is denied, the denial shall be accompanied by an explanation of the basis for the denial. If asked to do so, the person denying the request shall, as promptly as possible, reduce the explanation for the denial to writing.

(d) Nothing in this section shall be construed to require a public agency to respond to requests for copies of public records outside of its usual business hours.

Public Records Reform Proposal Redlines

(e) Nothing in this section shall be construed to require a public agency to respond to a request for a copy of a public record by creating or compiling a record that does not exist. If a public agency, as a service to the requester, voluntarily elects to create or compile a record, it may negotiate a reasonable charge for the service with the requester. Nothing in this section shall be construed to require a public agency to put into electronic medium a record that is not kept in electronic medium [or to convert records to a medium or format not maintained by the agency, except upon mutual agreement and payment of any associated costs as outlined in G.S. 132-6.2\(b\)](#). (1995, c. 388, s. 3; 2004-129, s. 38.)